

AMENDED IN ASSEMBLY MARCH 26, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 177

Introduced by Assembly Member Oropeza

January 23, 2003

~~An act to add Sections 13312.5 and 14105.3 to the Elections Code, An act to amend Sections 9084, 13300, and 14105 of, to add Section 14105.3 to, and to add Chapter 5 (commencing with Section 2300) to Division 2 of, the Elections Code, relating to elections.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 177, as amended, Oropeza. ~~Elections: rights of voters.~~

~~Existing law requires each county elections official to prepare and provide to the voters a voter's pamphlet containing specified information concerning candidates in an election.~~

~~This bill would require that the voter's pamphlet include a statement setting forth various specified rights of voters during an election. The Secretary of State would be required to print posters, in English and Spanish, setting forth the list of rights, and to distribute the posters to county elections officials for display by precinct officials at their polling places.~~

~~By increasing the duties of local elections officials, the bill would impose a state-mandated local program.~~

~~Existing law gives voters specified rights concerning the casting of ballots by voters, the receipt of election materials and other voting information, and the reporting of illegal or fraudulent activity as to the electoral process.~~

This bill would establish a Voter Bill of Rights enumerating the rights of voters as established under existing law and would require voters to be informed of the Voter Bill of Rights.

Existing law requires ballot pamphlets to include specified information and requires local elections officials to prepare sample ballots with specified information to provide certain information at all precinct offices, and to post specified information at polling places on election days.

This bill would require ballot pamphlets to also include the Voter Bill of Rights and would require the local elections officials to include the Voter Bill of Rights in sample ballots and in information provided to precinct offices and posted at polling places.

Because this bill would increase the duties of local elections officials, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 13312.5 is added to the Elections Code,~~
2 SECTION 1. Chapter 5 (commencing with Section 2300) is
3 added to Division 2 of the Elections Code, to read:

4

5 CHAPTER 5. VOTER BILL OF RIGHTS

6

7 2300. (a) There shall be a Voter Bill of Rights for voters,
8 available to the public, which shall read:

9 (1) You have the right to cast a ballot if you are a valid
10 registered voter.

1 (2) *You have the right to cast a provisional ballot if your name*
2 *is not listed on the voting rolls.*

3 (3) *You have the right to cast a ballot if you are present and in*
4 *line at the polling place prior to the close of the polls.*

5 (4) *You have the right to cast a secret ballot free from*
6 *intimidation.*

7 (5) (A) *You have the right to receive a new ballot if, prior to*
8 *casting your ballot, you believe you made a mistake.*

9 (B) *If at any time before you finally cast your ballot, you feel*
10 *you have made a mistake, you have the right to exchange the*
11 *spoiled ballot for a new ballot. Absentee voters may also request*
12 *and receive a new ballot if they return their spoiled ballot to an*
13 *elections official prior to the closing of the polls on election day.*

14 (6) *You have the right to receive assistance in casting your*
15 *ballot, if necessary.*

16 (7) *You have the right to take time off from work to vote, if*
17 *necessary.*

18 (8) *You have the right to election materials in another*
19 *language, if there are sufficient residents in your precinct to*
20 *warrant production.*

21 (9) (A) *You have the right to ask questions about election*
22 *procedures and observe the elections process.*

23 (B) *You have the right to ask questions of the precinct board and*
24 *election officials regarding election procedures and to receive an*
25 *answer or be directed to the appropriate official for an answer.*
26 *However, if persistent questioning disrupts the execution of their*
27 *duties, the board or election officials may discontinue responding*
28 *to questions.*

29 (10) *You have the right to report any illegal or fraudulent*
30 *activity to a local elections official or to the Secretary of State's*
31 *Office.*

32 (b) *Beneath the Voter Bill of Rights there shall be listed a*
33 *toll-free telephone number to call if a person has been denied a*
34 *voting right or to report election fraud or misconduct.*

35 (c) *The Secretary of State may develop regulations to*
36 *implement and clarify the Voter Bill of Rights set forth in*
37 *subdivision (a).*

38 (d) *The Voter Bill of Rights set forth in subdivisions (a) and (b)*
39 *shall be made available to the public before each election and on*
40 *election day, at a minimum, as follows:*

(1) *The Voter Bill of Rights shall be printed in the statewide voter pamphlet, pursuant to Section 9084, in a minimum of 12-point type. Subparagraph (B) of paragraph (5) of subdivision (a) and subparagraph (B) of paragraph (9) of subdivision (a) may be printed in a smaller point type than the rest of the Voter Bill of Rights.*

(2) *The Voter Bill of Rights shall be printed in sample ballots prepared pursuant to Section 13300 in a minimum of 12-point type. Subparagraph (B) of paragraph (5) of subdivision (a) and subparagraph (B) of paragraph (9) of subdivision (a) may be printed in a smaller point type than the rest of the Voter Bill of Rights.*

(3) *Posters or other printed materials containing the Voter Bill of Rights shall be included in precinct supplies pursuant to Section 14105.*

SEC. 2. *Section 9084 of the Elections Code is amended to read:*

9084. The ballot pamphlet shall contain all of the following:

(a) A complete copy of each state measure.

(b) A copy of the specific constitutional or statutory provision, if any, that each state measure would repeal or revise.

(c) A copy of the arguments and rebuttals for and against each state measure.

(d) A copy of the analysis of each state measure.

(e) Tables of contents, indexes, art work, graphics, and other materials that the Secretary of State determines will make the ballot pamphlet easier to understand or more useful for the average voter.

(f) A notice, conspicuously printed on the cover of the ballot pamphlet, indicating that additional copies of the ballot pamphlet will be mailed by the county elections official upon request.

(g) A written explanation of the judicial retention procedure as required by Section 9083.

(h) *The Voter Bill of Rights pursuant to Section 2300.*

SEC. 3. *Section 13300 of the Elections Code is amended to read:*

13300. (a) By at least 29 days before the primary, each county elections official shall prepare separate sample ballots for each political party and a separate sample nonpartisan ballot, placing thereon in each case in the order provided in Chapter 2

(commencing with Section 13100), and under the appropriate title of each office, the names of all candidates for whom nomination papers have been duly filed with him or her or have been certified to him or her by the Secretary of State to be voted for in his or her county at the primary election.

(b) The sample ballot shall be identical to the official ballots, except as otherwise provided by law. The sample ballots shall be printed on paper of a different texture from the paper to be used for the official ballot.

(c) One sample ballot of the party to which the voter belongs, as evidenced by his or her registration, shall be mailed to each voter entitled to vote at the primary who registered at least 29 days prior to the election not more than 40 nor less than 10 days before the election. A nonpartisan sample ballot shall be so mailed to each voter who is not registered as intending to affiliate with any of the parties participating in the primary election, provided that on election day any ~~such~~ person may, upon request, vote the ballot of a political party if authorized by the party's rules, duly noticed to the Secretary of State.

(d) *The sample ballot shall include the Voter Bill of Rights pursuant to Section 2300.*

SEC. 4. Section 14105 of the Elections Code is amended to read:

14105. The elections official shall furnish to the precinct officers all of the following:

(a) Printed copies of the indexes.

(b) Necessary printed blanks for the roster, tally sheets, lists of voters, declarations, and returns.

(c) Envelopes in which to enclose returns.

(d) Not less than six nor more than 12 instruction cards to each precinct for the guidance of voters in obtaining and marking their ballots. On each card shall be printed necessary instructions and the provisions of Sections 14225, 14279, 14280, 14287, 14291, 14295, 15051, 15054, 15055, 15059, 15060, 15061, 18370, 18380, 18403, 18563, and 18569.

(e) A digest of the election laws with any further instructions the county elections official may desire to make.

(f) An American flag of sufficient size to adequately assist the voter in identifying the polling place. The flag is to be erected at or near the polling place on election day.

1 (g) A ballot container, properly marked on the outside
2 indicating its contents.

3 (h) When it is necessary to supply additional ballot containers,
4 these additional containers shall also be marked on the outside,
5 indicating their contents.

6 (i) Sufficient ink pads and stamps for each booth. The stamps
7 shall be one solid piece and shall be made so that a cross (+) may
8 be made with either end. If ballots are to be counted by vote
9 tabulating equipment, an adequate supply of other approved
10 voting devices shall be furnished. All voting stamps or voting
11 devices shall be maintained in good usable condition.

12 (j) When a candidate or candidates have qualified to have his
13 or her or their names counted pursuant to Chapter 7 (commencing
14 with Section 15350) of Division 15, a sufficient number of ink
15 pens or pencils in the voting booths for the purpose of writing in
16 on the ballot the name of the candidate or candidates.

17 (k) A sufficient number of cards to each polling place
18 containing the telephone number of the office to which a voter may
19 call to obtain information about his or her precinct location. The
20 card shall state that the voter may call collect during polling hours.

21 (l) An identifying badge or insignia for each member of the
22 precinct board. The member shall print his or her name and the
23 precinct number thereon and shall wear the badge or insignia at all
24 times in the performance of duties, so as to be readily identified as
25 a member of the precinct board by all persons entering the polling
26 place.

27 (m) Facsimile copies of the ballot containing ballot measures
28 and ballot instructions printed in Spanish or other languages as
29 provided in Section 14201.

30 (n) Sufficient copies of the notices to be posted on the indexes
31 used at the polls. The notice shall read as follows: "This index shall
32 not be marked in any manner except by a member of the precinct
33 board acting pursuant to Section 14297 of the Elections Code. Any
34 person who removes, tears, marks, or otherwise defaces this index
35 with the intent to falsify or prevent others from readily
36 ascertaining the name, address, or political affiliation of any voter,
37 or the fact that a voter has or has not voted, is guilty of a
38 misdemeanor."

39 (o) A roster of voters for each precinct in the form prescribed
40 in Section 14107.

(p) In addition, the elections official may, with the approval of the board of supervisors, furnish the original books of affidavits of registration or other material necessary to verify signatures to the precinct officers.

(q) *Printed copies of the Voter Bill of Rights, supplied by the Secretary of State. The Voter Bill of Rights shall be conspicuously posted both inside and outside the polling place.*

This section shall become operative on January 1, 1990.

SEC. 5. *Section 14105.3 is added to the Elections Code, to read:*

14105.3. (a) The federal Help America Vote Act of 2002 (P.L. 107-252) requires voting information to be publicly posted at each polling place on the day of each election for federal office. Voting information is defined as including general information on voting rights under applicable federal and state laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated.

(b) The Secretary of State shall print posters and other appropriate materials setting forth the voter rights listed in Section 2300. The posters shall be printed in as many languages as the Secretary of State determines are necessary, but, at a minimum, in sufficient languages to comply with Section 14201 and with the federal Voting Rights Act of 1965, as amended by Public Law 94-73. The Secretary of State shall distribute the posters and materials to all county elections officials sufficiently in advance of statewide elections.

SEC. 6. *Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.*

~~to read:~~

~~13312.5.— Each voter's pamphlet prepared pursuant to Section 13307 shall contain a statement entitled "Rights of Voters." The statement shall appear immediately before the sample ballot, and~~

1 shall set forth, in not less than 12-point bold type, in both English
2 and Spanish, the following list of rights:

3 1. A voter has the right to ask questions. The precinct board
4 shall answer a voter's questions regarding election day procedures
5 or refer the voter to an appropriate elections official for an answer.
6 The precinct board may stop responding to questions, however, if
7 it determines that questioning is interfering with the voting
8 process.

9 2. A voter has the right to receive a new ballot at any time
10 before his or her ballot is cast. To receive a new ballot, a voter must
11 return the previously provided ballot to a poll worker or elections
12 official. An absentee voter may also receive a new ballot. To
13 receive a new ballot, an absentee voter must return the previously
14 provided absentee ballot to an elections official before the election
15 day polls close.

16 3. A voter has the right to a written receipt indicating that his
17 or her vote was received. Each person voting at a polling place
18 shall be given a receipt. The receipt shall indicate that the voter
19 properly cast his or her vote and that the vote was received by the
20 precinct board or an elections official. The receipt may not indicate
21 how the voter cast his or her vote.

22 4. A voter has the right to know that his or her vote counts. It
23 is fundamentally important to the democratic process that all
24 eligible voters understand that their participation in the electoral
25 process is one of the highest and most valued acts of civic
26 responsibility.

27 5. A voter has the right to have his or her polling place stay open
28 long enough to accommodate everyone who is present to vote at
29 the time of closing.

30 6. The public has the right to request and receive public
31 information at the polling place. This includes the right of
32 get-out-the-vote workers to obtain a list of all voters who have
33 voted.

34 7. Every person with a valid California voter notification card
35 has the right to vote.

36 8. Every person whose name does not appear on the voting
37 roster has the right to receive a provisional ballot at the polling
38 place.

39 SEC. 2. Section 14105.3 is added to the Elections Code, to
40 read:

1 ~~14105.3. The Secretary of State shall print posters setting~~
2 ~~forth the voter rights listed in Section 13312.5. The posters shall~~
3 ~~be printed in English and Spanish and shall have “Rights of~~
4 ~~Voters” as their heading. The Secretary of State shall distribute the~~
5 ~~posters to all county elections officials sufficiently in advance of~~
6 ~~statewide elections for the county elections officials to distribute~~
7 ~~the posters to election precincts. Each precinct official shall~~
8 ~~exhibit one or more of the posters in conspicuous locations and~~
9 ~~shall exhibit both English and Spanish versions of the poster in~~
10 ~~polling places where there is a need for both versions, as~~
11 ~~determined by the respective county elections official.~~

12 ~~SEC. 3. Notwithstanding Section 17610 of the Government~~
13 ~~Code, if the Commission on State Mandates determines that this~~
14 ~~act contains costs mandated by the state, reimbursement to local~~
15 ~~agencies and school districts for those costs shall be made pursuant~~
16 ~~to Part 7 (commencing with Section 17500) of Division 4 of Title~~
17 ~~2 of the Government Code. If the statewide cost of the claim for~~
18 ~~reimbursement does not exceed one million dollars (\$1,000,000),~~
19 ~~reimbursement shall be made from the State Mandates Claims~~
20 ~~Fund.~~

